

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAYMOND CLAYTON,	:	CIVIL ACTION
Petitioner,	:	
	:	NO. 02-9509
v.	:	
	:	
BEN VARNER, SUPT., et al.,	:	
Respondents.	:	

ORDER

Petitioner has filed objections to the Report and Recommendation of Magistrate Judge Thomas J. Rueter. Essentially, petitioner is arguing that the Report and Recommendation “misapprehended and overlooked petitioner’s substantial claim of actual innocence that he is presenting.” (P. 2 of Petitioner’s Objections).

Actually, the Report and Recommendation did neither. In his Report and Recommendation, Magistrate Judge Rueter thoroughly discussed petitioner’s claim and correctly decided that it was meritless.

As pointed out in footnote 6 of the Report and Recommendation, evidence that existed at the time of trial is not new evidence.

Accordingly, the following order is entered:

AND NOW, this 24th day of September, 2014, upon careful and independent consideration of the pleadings and record herein, and after review of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter, and Petitioner’s Objections thereto, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. Petitioner's Motion Requesting to Vacate Judgment Entered on April 8, 2003 (Docket No. 16) is **DENIED**; and
3. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

s/ Ronald L. Buckwalter

RONALD L. BUCKWALTER, J.